IN THE UNITED STATES DISTRICT COURT WESTERN DISTRICT OF MISSOURI SOUTHERN DIVISION

Shaun Mack,)
	Petitioner,)
VS.) No. 04-4377-CV-S-FJG
Robert McFadden, Warden,)
United States Medical Center for)
Federal Prisoners,)
	Defendants.)

ORDER

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate Judge for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate Judge has completed his preliminary review of the petition and has submitted to the undersigned a report and recommendation that the petition be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the magistrate judge, in which he reasserts the allegation of his original petition. As was noted in the Report and Recommendation, the standard enunciated in *Superintendent, Mass.Corr.Inst., Walpole v. Hill*, 472 U.S. 445, (1985), is that due process requirements are satisfied if some evidence supports the decision of the committee. There is some evidence to support the finding that petitioner had an unexcused absence from an educational assignment. The petitioner's exceptions must therefore be overruled. It is

ORDERED that petitioner be, and he is hereby, denied leave to proceed in forma pauperis; it is further

ORDERED, ADJUDGED and DECREED that the petition filed herein be dismissed without prejudice.

/s/Fernando J. Gaitan, Jr.
United States District Judge

Dated: April 26, 2006
Kansas City, Missouri